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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,672	12/12/2003	Scott W. Ziegler	005	6319

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/734,672

Applicant(s)

ZIEGLER, SCOTT W.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-18 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) 20-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of the restriction requirement in the reply filed on October 24, 2005 is acknowledged. The traversal is on the ground(s) that "a search in the art for references related to the subject matter of the claims of Group I may likely uncover references related to the subject matter of Group II, and therefore the Examiner will not be seriously burdened". This is not found persuasive because the search of the prior art for the method claims is not limited to the product comprising the adaptor and cup. The method could additionally be found in other art areas not limited to the structure alone, but also including materials within the cup. Thus, a burden to search the prior art for every possible method of use of the adaptor and cup would in fact seriously burden the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the compressed bead having an oval configuration with a long axis parallel to and orthogonal to the longitudinal axis of the cup must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views

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of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. Claims 5 and 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the opposing wall" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Wherein claim 1 positively recites the "deforming of the walls of the cup", the claims are considered to be drawn to the combination of the adaptor and the cup. Subsequently, claim 14 sets forth similar structure therein and is redundant.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1,8,9, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Isotani (JP 1-126922) in view of Ramsey (US 5,036,993).

Isotani teaches an adaptor for a tapered cup, the adaptor being of a harder material than the cup to deform the cup walls upon first application thereto. Isotani is silent regarding a recess for engaging the bead of the cup.

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Ramsey teaches it is known to provide an adaptor with a recess for engaging the bead of an associated cup.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a recess in the base for engaging the bead of the cup. Doing so provides a more aesthetic and smooth upper edge.

6. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Yeh (US 5,368,186).

Isotani teaches the claimed adaptor and cup except for the threads being on an insert.

Yeh teaches it is known to provide an adaptor with sealing means as an integral part of the adaptor base (fig. 2) or as a separate portion engaged with the adaptor base (fig. 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the threads on an insert of a softer material fastened to the base, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art and as evidenced by Yeh. Doing so allows for a more durable adaptor base structure of a harder plastic to be formed and used with a cup without destruction of the cup wall.

Regarding claim 13, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the threads as annular rings since the examiner takes Official Notice of the equivalence of threads and annular rings for their use in the closure art and the selection of any of these known equivalents to secure a closure to a cup would be within the level of ordinary skill in the art.

7. Claims 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Isotani in view of Ramsey and Yeh (US 5,368,186).

Isotani teaches an adaptor for a tapered cup, the adaptor being of a harder material than the cup to deform the cup walls upon first application thereto. Isotani is silent regarding a recess for engaging the bead of the cup and the threads being on an insert.

Ramsey teaches it is known to provide an adaptor with a recess for engaging the bead of an associated cup.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a recess in the base for engaging the bead of the cup. Doing so provides a more aesthetic and smooth upper edge.

Yeh teaches it is known to provide an adaptor with sealing means as an integral part of the adaptor base (fig. 2) or as a separate portion engaged with the adaptor base (fig. 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the threads on an insert of a softer material fastened to the base, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art and as evidenced by Yeh. Doing so allows for a more durable adaptor base structure of a harder plastic to be formed and used with a cup without destruction of the cup wall.

8. Claims 1,4-11, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Melle et al. (US 5,253,781) in view of Isotani.

Van Melle teaches the claimed adaptor and cup except for threads on the adaptor base which deform the cup upon application thereto.

Isotani teaches it is known to provide an adaptor with screw threads on the base which deform the cup wall upon threading engagement.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of external threads to the base of Van Melle as taught by Isotani.

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Doing so provides a secondary engagement which will not readily separate should one lift and carry the attached adaptor near the junction of the cup rim and adaptor recess.

Regarding the taper at the distal end of the base wall, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make form the base wall with a taper of less than 5 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Doing so allows the adaptor to be used with a cup having a small downwardly tapered sidewall.

Regarding claims 16 and 17, the direction of the oval extension of the compressed bead is dependent upon various conditions including the diameter of the bead and the material of the cup. The bead of the prior art can be compressed to form an oval extending in directions parallel or orthogonal to the longitudinal axis of the cup.

9. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mount et al. (US 3,120,912) in view of Isotani.

Mount teaches the claimed adapter and cup except for threads deforming the cup walls upon threaded application.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the substitute the external bead with threads since the examiner takes Official Notice of the equivalence of threads and annular beads for their use in the closure art and the selection of any of these known equivalents to secure a closure to a cup would be within the level of ordinary skill in the art.

Isotani teaches it is known to provide an adaptor with screw threads on the base which deform the cup wall upon threading engagement.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of external threads which deform the wall of an associated cup as

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taught by Isotani. Doing so provides an alternative threaded engagement between the adaptor and cup.

Response to Arguments

10. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Various prior art closures teaching features similar to those disclosed and/or claimed are cited for their disclosures.

13. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify

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the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

14. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Errica Miller at (571) 272-4370.

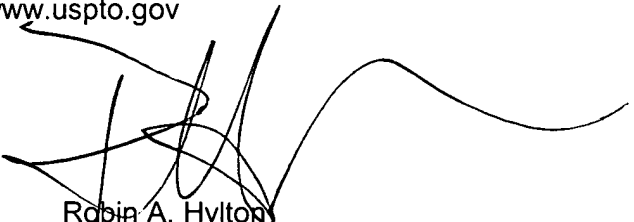
Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
January 6, 2006



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Primary Examiner
GAU 3727